

SECOND REGULAR SESSION

# SENATE BILL NO. 1033

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR BRAY.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5271S.011

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## AN ACT

To repeal sections 160.400 and 160.405, RSMo, and to enact in lieu thereof two new sections relating to charter schools.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 160.400 and 160.405, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 160.400 and 160.405, to  
3 read as follows:

160.400. 1. A charter school is an independent public school.

2 2. Charter schools may be operated only in a metropolitan school district  
3 or in an urban school district containing most or all of a city with a population  
4 greater than three hundred fifty thousand inhabitants and may be sponsored by  
5 any of the following:

6 (1) The school board of the district;

7 (2) A public four-year college or university with its primary campus in the  
8 school district or in a county adjacent to the county in which the district is  
9 located, with an approved teacher education program that meets regional or  
10 national standards of accreditation;

11 (3) A community college located in the district; or

12 (4) Any private four-year college or university located in a city not within  
13 a county with an enrollment of at least one thousand students, and with an  
14 approved teacher preparation program.

15 3. The mayor of a city not within a county may request a sponsor under  
16 subdivision (2), (3), or (4) of subsection 2 of this section to consider sponsoring a  
17 "workplace charter school", which is defined for purposes of sections 160.400 to  
18 160.420 as a charter school with the ability to target prospective students whose  
19 parent or parents are employed in a business district, as defined in the charter,

20 which is located in the city.

21 4. No sponsor shall receive from an applicant for a charter school any fee  
22 of any type for the consideration of a charter, nor may a sponsor condition its  
23 consideration of a charter on the promise of future payment of any kind.

24 5. The charter school shall be a Missouri nonprofit corporation  
25 incorporated pursuant to chapter 355, RSMo. The charter provided for herein  
26 shall constitute a contract between the sponsor and the charter school.

27 6. As a nonprofit corporation incorporated pursuant to chapter 355, RSMo,  
28 the charter school shall select the method for election of officers pursuant to  
29 section 355.326, RSMo, based on the class of corporation selected. Meetings of  
30 the governing board of the charter school shall be subject to the provisions of  
31 sections 610.010 to 610.030, RSMo, the open meetings law.

32 7. A sponsor of a charter school, its agents and employees are not liable  
33 for any acts or omissions of a charter school that it sponsors, including acts or  
34 omissions relating to the charter submitted by the charter school, the operation  
35 of the charter school and the performance of the charter school.

36 8. A charter school may affiliate with a four-year college or university,  
37 including a private college or university, or a community college as otherwise  
38 specified in subsection 2 of this section when its charter is granted by a sponsor  
39 other than such college, university or community college. Affiliation status  
40 recognizes a relationship between the charter school and the college or university  
41 for purposes of teacher training and staff development, curriculum and  
42 assessment development, use of physical facilities owned by or rented on behalf  
43 of the college or university, and other similar purposes. The primary campus of  
44 the college or university must be located within the county in which the school  
45 district lies wherein the charter school is located or in a county adjacent to the  
46 county in which the district is located. A university, college or community college  
47 may not charge or accept a fee for affiliation status.

48 9. The expenses associated with sponsorship of charter schools shall be  
49 defrayed by the department of elementary and secondary education retaining one  
50 and five-tenths percent of the amount of state and local funding allocated to the  
51 charter school under section 160.415, not to exceed one hundred twenty-five  
52 thousand dollars, adjusted for inflation. Such amount shall not be withheld when  
53 the sponsor is a school district or the state board of education. The department  
54 of elementary and secondary education shall remit the retained funds for each  
55 charter school to the school's sponsor, provided the sponsor remains in good

56 standing by fulfilling its sponsorship obligations under sections 160.400 to  
57 160.420 and 167.349, RSMo, with regard to each charter school it sponsors,  
58 including appropriate demonstration of the following:

59 (1) Expends no less than ninety percent of its charter school sponsorship  
60 funds in support of its charter school sponsorship program, or as a direct  
61 investment in the sponsored schools;

62 (2) Maintains a comprehensive application process that follows fair  
63 procedures and rigorous criteria and grants charters only to those developers who  
64 demonstrate strong capacity for establishing and operating a quality charter  
65 school;

66 (3) Negotiates contracts with charter schools that clearly articulate the  
67 rights and responsibilities of each party regarding school autonomy, expected  
68 outcomes, measures for evaluating success or failure, performance consequences,  
69 and other material terms;

70 (4) Conducts contract oversight that evaluates performance, monitors  
71 compliance, informs intervention and renewal decisions, and ensures autonomy  
72 provided under applicable law; and

73 (5) Designs and implements a transparent and rigorous process that uses  
74 comprehensive data to make merit-based renewal decisions.

75 10. No university, college or community college shall grant a charter to  
76 a nonprofit corporation if an employee of the university, college or community  
77 college is a member of the corporation's board of directors.

78 11. No sponsor shall grant a charter under sections 160.400 to 160.420  
79 and 167.349, RSMo, without ensuring that a criminal background check and child  
80 abuse registry check are conducted for all members of the governing board of the  
81 charter schools or the incorporators of the charter school if initial directors are  
82 not named in the articles of incorporation, nor shall a sponsor renew a charter  
83 without ensuring a criminal background check and child abuse registry check are  
84 conducted for each member of the governing board of the charter school.

85 12. No member of the governing board of a charter school shall hold any  
86 office or employment from the board or the charter school while serving as a  
87 member, nor shall the member have any substantial interest, as defined in  
88 section 105.450, RSMo, in any entity employed by or contracting with the board.  
89 No board member shall be an employee of a company that provides substantial  
90 services to the charter school. All members of the governing board of the charter  
91 school shall be considered decision-making public servants as defined in section

92 105.450, RSMo, for the purposes of the financial disclosure requirements  
93 contained in sections 105.483, 105.485, 105.487, and 105.489, RSMo.

94 13. A sponsor shall provide timely submission to the state board of  
95 education of all data necessary to demonstrate that the sponsor is in material  
96 compliance with all requirements of sections 160.400 to 160.420 and 167.349,  
97 RSMo.

98 14. The state board of education shall ensure each sponsor is in  
99 compliance with all requirements under sections 160.400 to 160.420 and 167.349,  
100 RSMo, for each charter school sponsored by any sponsor. The state board shall  
101 notify each sponsor of the standards for sponsorship of charter schools,  
102 delineating both what is mandated by statute and what best practices  
103 dictate. **The state board shall establish standards for sponsors to**  
104 **conduct annual Missouri school improvement plan assessments of each**  
105 **sponsored charter school. The standards shall include an evaluation of:**  
106 **curriculum and instruction, facilities, health and safety, educational**  
107 **programs, and compliance with state performance standards; adequacy**  
108 **of the sponsoring agency's support for and communication with the**  
109 **school; operation and performance of the nonprofit board of the charter**  
110 **school and education management organization, if contracted; and the**  
111 **quality of the partnership between the local school district, the**  
112 **sponsor, and the charter school.** The state board, after a public hearing, may  
113 require remedial action for a sponsor that it finds has not fulfilled its obligations  
114 of sponsorship, such remedial actions including withholding the sponsor's funding  
115 and suspending for a period of up to one year the sponsor's authority to sponsor  
116 a school that it currently sponsors or to sponsor any additional school. If the  
117 state board removes the authority to sponsor a currently operating charter school,  
118 the state board shall become the interim sponsor of the school for a period of up  
119 to three years until the school finds a new sponsor or until the charter contract  
120 period lapses.

160.405. 1. A person, group or organization seeking to establish a charter  
2 school shall submit the proposed charter, as provided in this section, to a sponsor.  
3 If the sponsor is not a school board, the applicant shall give a copy of its  
4 application to the school board of the district in which the charter school is to be  
5 located and to the state board of education, within five business days of the date  
6 the application is filed with the proposed sponsor. The school board may file  
7 objections with the proposed sponsor, and, if a charter is granted, the school

8 board may file objections with the state board of education. The charter shall  
9 include a mission statement for the charter school, a description of the charter  
10 school's organizational structure and bylaws of the governing body, which will be  
11 responsible for the policy and operational decisions of the charter school, a  
12 financial plan for the first three years of operation of the charter school including  
13 provisions for annual audits, a description of the charter school's policy for  
14 securing personnel services, its personnel policies, personnel qualifications, and  
15 professional development plan, a description of the grades or ages of students  
16 being served, the school's calendar of operation, which shall include at least the  
17 equivalent of a full school term as defined in section 160.011, and an outline of  
18 criteria specified in this section designed to measure the effectiveness of the  
19 school. The charter shall also state:

20 (1) The educational goals and objectives to be achieved by the charter  
21 school;

22 (2) A description of the charter school's educational program and  
23 curriculum;

24 (3) The term of the charter, which shall be not less than five years, nor  
25 greater than ten years and shall be renewable;

26 (4) A description of the charter school's pupil performance standards,  
27 which must meet the requirements of subdivision (6) of subsection 5 of this  
28 section. The charter school program must be designed to enable each pupil to  
29 achieve such standards;

30 (5) A description of the governance and operation of the charter school,  
31 including the nature and extent of parental, professional educator, and  
32 community involvement in the governance and operation of the charter school;  
33 and

34 (6) A description of the charter school's policies on student discipline and  
35 student admission, which shall include a statement, where applicable, of the  
36 validity of attendance of students who do not reside in the district but who may  
37 be eligible to attend under the terms of judicial settlements.

38 2. Proposed charters shall be subject to the following requirements:

39 (1) A charter may be approved when the sponsor determines that the  
40 requirements of this section are met and determines that the applicant is  
41 sufficiently qualified to operate a charter school. The sponsor's decision of  
42 approval or denial shall be made within ninety days of the filing of the proposed  
43 charter;

44           (2) If the charter is denied, the proposed sponsor shall notify the applicant  
45 in writing as to the reasons for its denial and forward a copy to the state board  
46 of education within five business days following the denial;

47           (3) If a proposed charter is denied by a sponsor, the proposed charter may  
48 be submitted to the state board of education, along with the sponsor's written  
49 reasons for its denial. If the state board determines that the applicant meets the  
50 requirements of this section, that the applicant is sufficiently qualified to operate  
51 the charter school, and that granting a charter to the applicant would be likely  
52 to provide educational benefit to the children of the district, the state board may  
53 grant a charter and act as sponsor of the charter school. The state board shall  
54 review the proposed charter and make a determination of whether to deny or  
55 grant the proposed charter within sixty days of receipt of the proposed charter,  
56 provided that any charter to be considered by the state board of education under  
57 this subdivision shall be submitted no later than March first prior to the school  
58 year in which the charter school intends to begin operations. The state board of  
59 education shall notify the applicant in writing as the reasons for its denial, if  
60 applicable; and

61           (4) The sponsor of a charter school shall give priority to charter school  
62 applicants that propose a school oriented to high-risk students and to the reentry  
63 of dropouts into the school system. If a sponsor grants three or more charters,  
64 at least one-third of the charters granted by the sponsor shall be to schools that  
65 actively recruit dropouts or high-risk students as their student body and address  
66 the needs of dropouts or high-risk students through their proposed mission,  
67 curriculum, teaching methods, and services. For purposes of this subsection, a  
68 "high-risk" student is one who is at least one year behind in satisfactory  
69 completion of course work or obtaining credits for graduation, pregnant or a  
70 parent, homeless or has been homeless sometime within the preceding six  
71 months, has limited English proficiency, has been suspended from school three  
72 or more times, is eligible for free or reduced-price school lunch, or has been  
73 referred by the school district for enrollment in an alternative  
74 program. "Dropout" shall be defined through the guidelines of the school core  
75 data report. The provisions of this subsection do not apply to charters sponsored  
76 by the state board of education.

77           3. If a charter is approved by a sponsor, the charter application shall be  
78 submitted to the state board of education, along with a statement of finding that  
79 the application meets the requirements of sections 160.400 to 160.420 and section

80 167.439, RSMo, and a monitoring plan under which the charter sponsor will  
81 evaluate the academic performance of students enrolled in the charter  
82 school. The state board of education may, within sixty days, disapprove the  
83 granting of the charter. The state board of education may disapprove a charter  
84 on grounds that the application fails to meet the requirements of sections 160.400  
85 to 160.420 and section 167.349, RSMo, or that a charter sponsor previously failed  
86 to meet the statutory responsibilities of a charter sponsor.

87 4. Any disapproval of a charter pursuant to subsection 3 of this section  
88 shall be subject to judicial review pursuant to chapter 536, RSMo.

89 5. A charter school shall, as provided in its charter:

90 (1) Be nonsectarian in its programs, admission policies, employment  
91 practices, and all other operations;

92 (2) Comply with laws and regulations of the state, county, or city relating  
93 to health, safety, and state minimum educational standards, as specified by the  
94 state board of education, including the requirements relating to student discipline  
95 under sections 160.261, 167.161, 167.164, and 167.171, RSMo, notification of  
96 criminal conduct to law enforcement authorities under sections 167.115 to  
97 167.117, RSMo, academic assessment under section 160.518, transmittal of school  
98 records under section 167.020, RSMo, and the minimum number of school days  
99 and hours required under section 160.041;

100 (3) Except as provided in sections 160.400 to 160.420, be exempt from all  
101 laws and rules relating to schools, governing boards and school districts;

102 (4) Be financially accountable, use practices consistent with the Missouri  
103 financial accounting manual, provide for an annual audit by a certified public  
104 accountant, publish audit reports and annual financial reports as provided in  
105 chapter 165, RSMo, provided that the annual financial report may be published  
106 on the department of elementary and secondary education's Internet web site in  
107 addition to other publishing requirements, and provide liability insurance to  
108 indemnify the school, its board, staff and teachers against tort claims. A charter  
109 school that receives local educational agency status under subsection 6 of this  
110 section shall meet the requirements imposed by the Elementary and Secondary  
111 Education Act for audits of such agencies. For purposes of an audit by petition  
112 under section 29.230, RSMo, a charter school shall be treated as a political  
113 subdivision on the same terms and conditions as the school district in which it is  
114 located. For the purposes of securing such insurance, a charter school shall be  
115 eligible for the Missouri public entity risk management fund pursuant to section

116 537.700, RSMo. A charter school that incurs debt must include a repayment plan  
117 in its financial plan;

118 (5) Provide a comprehensive program of instruction for at least one grade  
119 or age group from kindergarten through grade twelve, which may include early  
120 childhood education if funding for such programs is established by statute, as  
121 specified in its charter;

122 (6) (a) Design a method to measure pupil progress toward the pupil  
123 academic standards adopted by the state board of education pursuant to section  
124 160.514, collect baseline data during at least the first three years for determining  
125 how the charter school is performing and to the extent applicable, participate in  
126 the statewide system of assessments, comprised of the essential skills tests and  
127 the nationally standardized norm-referenced achievement tests, as designated by  
128 the state board pursuant to section 160.518, complete and distribute an annual  
129 report card as prescribed in section 160.522, which shall also include a statement  
130 that background checks have been completed on the charter school's board  
131 members, report to its sponsor, the local school district, and the state board of  
132 education as to its teaching methods and any educational innovations and the  
133 results thereof, and provide data required for the study of charter schools  
134 pursuant to subsection 4 of section 160.410. No charter school will be considered  
135 in the Missouri school improvement program review of the district in which it is  
136 located for the resource or process standards of the program.

137 (b) For proposed high risk or alternative charter schools, sponsors shall  
138 approve performance measures based on mission, curriculum, teaching methods,  
139 and services. Sponsors shall also approve comprehensive academic and  
140 behavioral measures to determine whether students are meeting performance  
141 standards on a different time frame as specified in that school's charter. Student  
142 performance shall be assessed comprehensively to determine whether a high risk  
143 or alternative charter school has documented adequate student progress. Student  
144 performance shall be based on sponsor-approved comprehensive measures as well  
145 as standardized public school measures. Annual presentation of charter school  
146 report card data to the department of elementary and secondary education, the  
147 state board, and the public shall include comprehensive measures of student  
148 progress.

149 (c) Nothing in this paragraph shall be construed as permitting a charter  
150 school to be held to lower performance standards than other public schools within  
151 a district; however, the charter of a charter school may permit students to meet

152 performance standards on a different time frame as specified in its charter;

153 (7) Assure that the needs of special education children are met in  
154 compliance with all applicable federal and state laws and regulations;

155 (8) Provide along with any request for review by the state board of  
156 education the following:

157 (a) Documentation that the applicant has provided a copy of the  
158 application to the school board of the district in which the charter school is to be  
159 located, except in those circumstances where the school district is the sponsor of  
160 the charter school; and

161 (b) A statement outlining the reasons for approval or disapproval by the  
162 sponsor, specifically addressing the requirements of sections 160.400 to 160.420  
163 and 167.349, RSMo.

164 6. The charter of a charter school may be amended at the request of the  
165 governing body of the charter school and on the approval of the sponsor. The  
166 sponsor and the governing board and staff of the charter school shall jointly  
167 review the school's performance, management and operations at least once every  
168 two years or at any point where the operation or management of the charter  
169 school is changed or transferred to another entity, either public or private. The  
170 governing board of a charter school may amend the charter, if the sponsor  
171 approves such amendment, or the sponsor and the governing board may reach an  
172 agreement in writing to reflect the charter school's decision to become a local  
173 educational agency for the sole purpose of seeking direct access to federal grants.  
174 In such case the sponsor shall give the department of elementary and secondary  
175 education written notice no later than March first of any year, with the  
176 agreement to become effective July first. The department may waive the March  
177 first notice date in its discretion. The department shall identify and furnish a list  
178 of its regulations that pertain to local educational agencies to such schools within  
179 thirty days of receiving such notice.

180 7. (1) A sponsor shall revoke a charter or take other appropriate remedial  
181 action, which may include placing the charter school on probationary status, at any  
182 time if the charter school commits a serious breach of one or more provisions of its  
183 charter or on any of the following grounds: **failure to meet the standards under**  
184 **the sponsor's annual Missouri school improvement plan assessment**, failure  
185 to meet academic performance standards as set forth in its charter, failure to meet  
186 generally accepted standards of fiscal management, failure to provide information  
187 necessary to confirm compliance with all provisions of the charter and sections

188 160.400 to 160.420 and 167.349, RSMo, within forty-five days following receipt of  
189 written notice requesting such information, or violation of law.

190 (2) The sponsor may place the charter school on probationary status to  
191 allow the implementation of a remedial plan, which may require a change of  
192 methodology, a change in leadership, or both, after which, if such plan is  
193 unsuccessful, the charter may be revoked.

194 (3) At least sixty days before acting to revoke a charter, the sponsor shall  
195 notify the governing board of the charter school of the proposed action in  
196 writing. The notice shall state the grounds for the proposed action. The school's  
197 governing board may request in writing a hearing before the sponsor within two  
198 weeks of receiving the notice.

199 (4) The sponsor of a charter school shall establish procedures to conduct  
200 administrative hearings upon determination by the sponsor that grounds exist to  
201 revoke a charter. Final decisions of a sponsor from hearings conducted pursuant  
202 to this subsection are subject to judicial review pursuant to chapter 536, RSMo.

203 (5) A termination shall be effective only at the conclusion of the school  
204 year, unless the sponsor determines that continued operation of the school  
205 presents a clear and immediate threat to the health and safety of the children.

206 (6) A charter sponsor shall make available the school accountability report  
207 card information as provided under section 160.522 and the results of the  
208 academic monitoring required under subsection 3 of this section.

209 **(7) The sponsor shall annually conduct a Missouri school**  
210 **improvement plan assessment of the charter school, based upon**  
211 **standards established by the state board under section 160.400.**

212 8. A sponsor shall take all reasonable steps necessary to confirm that each  
213 charter school sponsored by such sponsor is in material compliance and remains  
214 in material compliance with all material provisions of the charter and sections  
215 160.400 to 160.420 and 167.349, RSMo. Every charter school shall provide all  
216 information necessary to confirm ongoing compliance with all provisions of its  
217 charter and sections 160.400 to 160.420 and 167.349, RSMo, in a timely manner  
218 to its sponsor.

219 9. A school district may enter into a lease with a charter school for  
220 physical facilities.

221 10. A governing board or a school district employee who has control over  
222 personnel actions shall not take unlawful reprisal against another employee at  
223 the school district because the employee is directly or indirectly involved in an

224 application to establish a charter school. A governing board or a school district  
225 employee shall not take unlawful reprisal against an educational program of the  
226 school or the school district because an application to establish a charter school  
227 proposes the conversion of all or a portion of the educational program to a charter  
228 school. As used in this subsection, "unlawful reprisal" means an action that is  
229 taken by a governing board or a school district employee as a direct result of a  
230 lawful application to establish a charter school and that is adverse to another  
231 employee or an educational program.

232 11. Charter school board members shall be subject to the same liability  
233 for acts while in office as if they were regularly and duly elected members of  
234 school boards in any other public school district in this state. The governing  
235 board of a charter school may participate, to the same extent as a school board,  
236 in the Missouri public entity risk management fund in the manner provided  
237 under sections 537.700 to 537.756, RSMo.

238 12. Any entity, either public or private, operating, administering, or  
239 otherwise managing a charter school shall be considered a quasi-public  
240 governmental body and subject to the provisions of sections 610.010 to 610.035,  
241 RSMo.

242 13. The chief financial officer of a charter school shall maintain:

243 (1) A surety bond in an amount determined by the sponsor to be adequate  
244 based on the cash flow of the school; or

245 (2) An insurance policy issued by an insurance company licensed to do  
246 business in Missouri on all employees in the amount of five hundred thousand  
247 dollars or more that provides coverage in the event of employee theft.

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